



NAVIGABLE WATERS

Did you know..?

- The average time it takes to acquire an individual Corps permit is 788 days and costs an average \$271,596
- Over \$1.7 billion is spent each year by the private and public sectors obtaining wetlands permits
- According to the American Gas Association, members are already having trouble achieving pipeline safety goals due to a lengthy permit application process that the EPA's proposed rule would extend

How would the WOTUS Draft affect your energy bill?

The EPA's proposed rule undermines American energy production by slowing energy infrastructure permitting. Energy companies already face burdensome project delays, costs, and duplicative compliance requirements at the federal level when trying to secure natural resource permits for natural gas projects.

The proposed rule extends these delays, which would not only reduce the siting area for new natural gas infrastructure projects, but would also delay vital maintenance work for existing infrastructure.

The proposed rule puts any land-locked area with intermittent water flow under federal jurisdiction. This would include a number of natural depressions that natural gas pipelines cross, which would cause regulatory hassles to drastically increase.

Under the current definition of "waters of the United States" (WOTUS), establishing "significant nexus" between a water source and a U.S. waterway requires showing more than speculative or insubstantial effects. Current WOTUS regulation only treats "adjacent wetlands" that are physically adjacent to U.S. navigable waterways as U.S. waters. Many municipal and county-level regulators have taken the responsibility of regulating isolated wetlands, floodplains, and riparian areas.

Changing the definition of navigable waters would slow American energy production and drive up energy costs for middle class families. The proposed rule creates new definitions that would include an array of minimal and enclosed water features as U.S. waters. Contrary to existing law, the proposed rule treats simple hydrological connections as basis for "significant nexus" to a U.S. waterway. This would increase regulation and slow energy production by placing small streams, natural and manmade conveyances and ditches, ephemeral streams, and isolated wetlands under federal jurisdiction.

The proposed rule exceeds existing federal jurisdiction under the Clean Water Act by creating new definitions to allow all waters to come under federal authority. The proposed rule includes a new definition for "neighboring waters," which will require federal regulation for waters in floodplain and riparian areas.

The proposed rule also includes a new definition for "tributary" that includes any water feature that drains into a body of U.S. water. This definition would bring natural or manmade rivers, streams, lakes, impoundments, canals, and ditches under federal regulation.

All of the new definitions created under the proposed rule will be carried out by environmental practitioners using their "best professional judgment." This will undoubtedly lead to inconsistent determinations that will require year-round surveys.

Not only does the EPA's proposed rule replace current state and local government regulations with a deeply flawed and highly ambiguous federally regulated system, it will also drive up electric bills for hard working American families.